

## REMARKS

Applicant's counsel thanks the Examiner for the careful consideration given the application.

The specification has been amended in order to correct some oversights and typographical errors. No new matter has been added.

In order to overcome the objection to the drawings, claim 3 has been deleted. The remaining claims have been amended to correct minor errors and to more clearly define the invention. No new matter has been added.

### 35 USC 102

Regarding the claim rejections under 35 USC § 102 (novelty), it is believed that the prior art document Eder (US 4,594,123) has been significantly misinterpreted. In fact, Eder refers to a traditional labelling machine which is totally unsuitable for forming tubular labels and applying them to containers by a heat-shrinking process. In detail, using the same wording of original claim 1, Eder does not disclose:

- a drum around which the tubular label is formed and adapted to support the bottle to be labelled on an upper base,
- a drum able to be vertically translated in order to take the bottle inside the formed tubular label, or
- stopper members of a lower label edge placed in a semi-circle at a preestablished height from the bottle bottom when the bottle is housed on the tubular label winding drum, the semi-circle diameter having to be such as to allow the vertical bottle translation during the bottle transfer step into the formed tubular label and to guarantee an elastic adaptation condition to the external and variable bottle surfaces.

Contrary to the Examiner's opinion, the alleged drum 7 disclosed in Eder is a rotary table for transferring the bottles along a circular path for positioning said containers at labelling stations. Therefore, the drum 7 of Eder is not a drum around which the tubular label is formed.

Furthermore, the drum 7 cannot be moved vertically (the citation to column 3, lines 49-63 does not appear to be appropriate) in order to take the bottle inside a formed tubular label.

As far as the alleged stopper members cited by the Examiner (namely, the lugs 27), they just assure a mechanical connection between each rotary plate 9 and the plate carriers 21 and they are completely unsuitable for defining a bearing plane in order to support a lower edge of a label (see column 4, lines 45-50: "*Each rotary plate 9 is provided on its bottom side with at least a pair of projecting lugs 27 which register in corresponding holes 28 in rotary plate carrier 21.* This arrangement provides a positive driving connection between the rotary plate carriers 21 and rotary plates 9"). In addition, the Examiner is not consistent in his analysis, indeed, because the alleged stopper members 27 (i.e. lugs) shown in Figure 4 do not refer to extra-length labels (see label 3 in figure 4), which were erroneously assumed by the Examiner as "tubular" labels.

It is to be noted that the "traditional" labelling machine of Eder is suitable for applying normal length labels and extra-length labels, while it is absolutely not suitable for forming a tubular label and after that for transferring a bottle inside said formed tubular label. Evidence of the fact that Eder discloses a labelling machine in which no tubular label is formed can be figured out at column 6, lines 6-36 wherein it is described the functioning of the labelling machine for extra-length labels (alleged "tubular labels"):

*"The second labeling station 13 where the encircling extra-length labels 2 are applied is provided with a glue application device 41 that includes a glue roller 42 making tangential contact with the rotational path of the bottles 1. A vertical strip of glue is applied to the bottles as they pass. [...] The label container 45 is positioned in such an attitude that the glue coated area on the bottle makes first contact with the leading edge of the foremost label in the container. Thus, the stripe of glue on the bottle effects partial adhesion of the label to the bottle. The trailing edge of the label is spaced somewhat from the path of rotation of the bottles 1. After a label is picked up it passes another glue applicator device 48 with which the trailing label edge is provided with a vertical strip of glue. The bottles are rotating counterclockwise along with their rotary plate 8 as they pass the label container. Thus, the labels are taken from container 45 by the first strip of glue and the label is wound on a bottle until the last removed label edge adheres to the bottle".* In this regard, it is to be noted that encircling body labels are different from tubular labels. An encircling body label is flat and it is glued on the bottle and wrapped around it due to the rotation of the bottle itself around a vertical axis. A tubular label is formed away from a bottle and then the bottle is transferred into it or vice versa. Tubular labels are attached to bottles by a heat-shrinking process and not by glue. For such a reason, a tubular label must be formed away from a bottle.

From what is mentioned above, it is readily apparent that labelling machines for tubular labels have different technical requirements with respect to labelling machines for nontubular labels, such as those according to Eder.

In view of the foregoing, it is clear that present claim 1 is new and non-obvious. The remaining dependent claims 2-7 depend upon new and non-obvious claim 1 and are accordingly allowable as depending from an allowable base claim.

In view of the present amendment, it is now believed that the application is in condition for allowance, which is respectfully requested. If any further fees are required by this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. BUG7-46160. Applicant is filing herewith a Substitute Power of Attorney. Please change the Correspondence Address herein to Customer Number 86378.

Respectfully submitted,  
PEARNE & GORDON LLP

By John P. Murtaugh  
John P. Murtaugh, Reg. No. 34226

1801 East 9<sup>th</sup> Street, Suite 1200  
Cleveland, OH 44114-3108  
Phone: 216-579-1700

Date: Dec. 21, 2009